

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Patrick J. Lyons,
Plaintiff,
v.
M & T BANK,
Defendant :

Bankruptcy No. 17-12550
ADV. PRO. NO

COMPLAINT

1. This is an action brought under the Bankruptcy Code, 11 U.S.C. §101 et seq., seeking a declaration that a lien held by defendant on plaintiff's real property is void and an order directing defendants to take all action necessary to extinguish the lien.
2. Jurisdiction is conferred on this Court by U.S.C. §1334. This proceeding is a core proceeding.
3. Plaintiff's action for declaration relief is authorized by 28 U.S.C. §2201 and §2202.
4. Plaintiff, Patrick J. Lyons, is the adult individual who resides at 35 Iris Circle, Elizabethtown, PA ("the Residence").
5. Defendant, M & T BANK, is banking institution doing business in Lancaster, PA.
6. On April 11, 2017, plaintiff filed a petition for relief under Chapter 13 of the Bankruptcy Code.
7. Defendant holds a second mortgage on the Residence.
8. Defendant filed one Proof of Claim as to the Residence in the amount of \$46,219.27.
9. The fair market value of plaintiff's Residence is not greater than \$130,000. per the attached Exhibit "A" as well as the reduction in value due to substantial delayed repairs and maintenance to the Residence.
10. Bank of America holds a first mortgage and prior lien on the Residence, and has filed a Proof of Claim in the proceeding in the amount of \$136,249.99.
11. Since the actual market value of the Residence in its current condition is less than \$136,000.00, Defendant's claim is unsecured/

12. Accordingly, the proposed Proof of Claim Defendant should be deemed allowed as an unsecured claim pursuant to 11 U.S.C. §502.

RELIEF

WHEREFORE, plaintiff requests that this Court grant the following relief: (1) declare that the defendant's claim shall be deemed unsecured..

DATE: February 28, 2018

/s/ Alaine V. Grbach
Alaine V. Grbach, Esquire
Attorney for Debtor
Attorney I.D. 45485
675 Estelle Drive

Lancaster, PA 17601
(717) 898-8402

Attorney for Debtor